

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

FELICIA LAMPKIN,)	
)	
Plaintiff,)	
)	Civil Action File
v.)	No.
)	
STATE FARM FIRE AND)	On Removal from State Court of
CASUALTY COMPANY,)	Gwinnett County
)	Civil Action No. 23-C-03355-S4
Defendant.)	

NOTICE OF REMOVAL

COME NOW, State Farm Fire and Casualty Company (“**State Farm**”), and without waiving its affirmative defenses, and within the time prescribed by law, files this Notice of Removal pursuant to 28 U.S.C. §§ 1441 and 1446, respectfully showing the Court the following facts:

1.

On May 16, 2023, Plaintiff filed a Complaint against State Farm in the State Court of Gwinnett County, Georgia, styled as *Felicia Lampkin v. State Farm Fire and Casualty Company*, and assigned Civil Action File No. 23-C-03355-S4 (the “State Court Action”). True and correct copies of all filings to date in the State Court Action are collectively attached hereto as **Exhibit “1”**.

2.

State Farm was served on June 13, 2023. This Notice of Removal is filed within 30 days of June 13, 2023, the date on which State Farm was served with the Complaint and notice of the subject lawsuit. This Notice of Removal is also filed within one year of the commencement of the action. Thus, removal is timely under 28 U.S.C. § 1446(b).

3.

The United States District Court for the Northern District of Georgia, Atlanta Division, includes Gwinnett County, Georgia. Thus, removal to this Court is proper under 28 U.S.C. § 1441(a).

4.

In its Complaint, Plaintiff alleges that her property was destroyed by fire on or around May 21, 2021. [Compl. ¶ 6]. Plaintiff further alleges that State Farm issued a Homeowners' Insurance Policy to Plaintiff that was in effect at the time of the fire. [Compl. ¶ 5]. In addition to recovery for the value of her personal property and rental income, Plaintiff seeks a bad faith penalty equal to not more than 50% of the liability of State Farm or \$5,000, whichever is greater, and attorney fees. [Compl. ¶¶ 11-12]. Although Plaintiff does not itemize her damages, based upon the foregoing, and based upon express statements by Plaintiff within the Complaint, Plaintiff is seeking damages in excess of \$75,000.00 [Compl. ¶ 11].

Specifically, Plaintiff alleges that “Defendant has breached the Policy by refusing to provide proper compensation for all damages sustained by Plaintiff, with said amount being more than \$75,000.00.” [*Id.*] Thus, the amount of damages Plaintiff seeks in this action is greater than \$75,000.

5.

Defendant State Farm Fire and Casualty Company is a corporation organized under the laws of the State of Illinois with its principal place of business in the State of Illinois. It is not a citizen of the State of Georgia, was not a citizen of the State of Georgia on the date of filing of the aforesaid civil action, and has not been thereafter.

6.

Plaintiff is a resident of Cobb County, Georgia. As such, Plaintiff is a citizen of the State of Georgia.

7.

Because Plaintiff and State Farm are citizens of different States, complete diversity exists between Plaintiff and State Farm in accordance with 28 U.S.C. § 1332(a)(1).

8.

As shown above, the amount in controversy exceeds the sum of \$75,000, exclusive of interests.

9.

The aforementioned civil action is a civil action of which this Court has original jurisdiction under the provisions of Title 28 of the United States Code §1332, and, accordingly, is one which may be removed to this Court by State Farm pursuant to the provisions of Title 28 of the United States Code §1441, in that it is a civil action in which the matter in controversy exceeds the sum of \$75,000.00 exclusive of interest and costs and is between Plaintiff, which is a citizen of Georgia and State Farm, which is a citizen of Illinois.

10.

State Farm has given written notice of the filing of this Notice of Removal to Plaintiff by notifying his attorney of record, Erik Yakaitis, Esq. of Davis Lawyers, LLC., 5600 Roswell Road, Bldg. C, Suite 131, Sandy Springs, Georgia 30342. State Farm also filed a written notice with the clerk of the State Court of Gwinnett County, Georgia a copy of said notice being attached hereto and made in part hereof.

WHEREFORE, State Farm prays that this case be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

This 12th day of July, 2023.

SWIFT CURRIE MCGHEE & HIERS

/s/ Kayla M. McCallum

Melissa A. Segel

Georgia Bar No. 020406

Kayla M. McCallum, Esq.

Georgia Bar No. 240946

Attorneys for Defendant

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CERTIFICATE OF COMPLIANCE

Pursuant to LR 7.1(D) of the Northern District of Georgia, I hereby certify that this document was prepared in Times New Roman font, 14 point, pursuant to LR 5.1(C).

SWIFT, CURRIE, McGHEE & HIERS, LLP

/s/ Kayla M. McCallum

Melissa A. Segel

Georgia Bar No. 020406

Kayla M. McCallum, Esq.

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Attorneys for Defendant

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day electronically filed *Notice of Removal* with the Clerk of Court using the CM/ECF System which will notify counsel of record as follows:

Eric A. Yakaitis
Davis Lawyers, LLC
5600 Roswell Road
Bldg. C, Suite 131
Sandy Springs, GA 30342
Attorneys for Plaintiff

This 12th day of July, 2023.

SWIFT CURRIE MCGHEE & HIERS

/s/ Kayla M. McCallum
Melissa A. Segel
Georgia Bar No. 020406
Kayla M. McCallum, Esq.
Georgia Bar No. 240946
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